



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/343,686 11/21/94 KELLER

287926
EXAMINER

HM31/0522

SHERIDAN ROSS AND MCINTOSH
1700 LINCOLN STREET
SUITE 3500
DENVER CO 80203

LAUNFORD	JRAPER NUMBER
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1651
DATE MAILED:

20
05/22/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory ActionApplication No.
08/343,686Applicant(s)
Keller et alExaminer
L. Blaine LankfordGroup Art Unit
1651

THE PERIOD FOR RESPONSE: [check only a) or b)]

a) ☒ expires 5 months from the mailing date of the final rejection.b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Apr 14, 1998 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):☒ will be entered upon filing of a Notice of Appeal and an Appeal Brief.☐ will not be entered because:☐ they raise new issues that would require further consideration and/or search. (See note below).☐ they raise the issue of new matter. (See note below).☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

☐ Applicant's response has overcome the following rejection(s): _____

☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attachment.

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _____

Claims objected to: _____

Claims rejected: 27-35, 37-56, 58, 59, and 108

☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Other

L. BLAINE LANKFORD
PRIMARY EXAMINER
ART UNIT 1651

Art Unit: 1808

ATTACHMENT TO ADVISORY ACTION

Claims 27-35, 37-56, 58-59 & 108 (newly submitted claim 107 was renumbered 108 by rule 126) are again considered on the merits.

It appears that applicant has demonstrated that if the claimed progenitor cells are cultured in a different manner than the manner in the Wiles reference, the progenitor cells will differentiate into cells different than those taught by Wiles. The method may be different but the cells don't appear to be different, they appear to be disclosed by Wiles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blaine Lankford whose telephone number is (703) 308-2455.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Withyshyn, can be reached on (703) 308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

May 20, 1998



L. Blaine Lankford
Primary Examiner
Art Unit 1651